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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 LARRY THOMPSON,

5 PLAINTIFF,

6 -against- Case No.:
7 14-CV-7349

8 THE CITY OF NEW YORK, POLICE OFFICER PAGIEL
9 CLARK, Shield # 28472, POLICE OFFICER PAUL
10 MONTEFUSCO, Shield # 10580, POLICE OFFICER
11 GERARD BOUWMANS, Shield # 2102, POLICE
12 OFFICER PHILLIP ROMANO, Shield #6295,
13 POLICE OFFICER WARREN RODNEY, Shield #
14 13744, SERGEANT ANTHONY BERTRAM, Shield
15 #277., POLICE OFFICERS JOHN/JANE DOE(S)
16 #S 1-10,

17 DEFENDANTS.

18 -----X

19 DATE: November 3, 2016
20 TIME: 11:00 A.M.

21 DEPOSITION of a Non-Party
22 Witness, MATTHEW MARTURANO, taken by the
23 respective parties, pursuant to a Court
24 Order and to the Federal Rules of Civil
25 Procedure, held at the offices of Diamond
Reporting, Inc., 16 Court Street, Brooklyn,
New York 11241, before Jamie Bortner, a
Notary Public of the State of New York.

1
2 FEDERAL STIPULATIONS

3
4
5 IT IS HEREBY STIPULATED AND AGREED by and
6 between the counsel for the respective
7 parties herein that the sealing, filing and
8 certification of the within deposition be
9 waived; that the original of the deposition
10 may be signed and sworn to by the witness
11 before anyone authorized to administer an
12 oath, with the same effect as if signed
13 before a Judge of the Court; that an
14 unsigned copy of the deposition may be used
15 with the same force and effect as if signed
16 by the witness, 30 days after service of
17 the original & 1 copy of same upon counsel
18 for the witness.

19
20 IT IS FURTHER STIPULATED AND AGREED that
21 all objections except as to form, are
22 reserved to the time of trial.

23 * * * *

2

4

1 A P P E A R A N C E S:

2 DAVID ZELMAN, ESQ.
3 Attorneys for the Plaintiff
4 LARRY THOMPSON
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6 Brooklyn, New York 11225
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18 Shield #6295, POLICE OFFICER WARREN
19 RODNEY, Shield # 13744, SERGEANT ANTHONY
20 BERTRAM, Shield #277, POLICE OFFICERS
21 JOHN/JANE DOE(S) #S 1-10
22 100 Church Street
23 New York, New York 10007
24 BY: KAVIN THADANI, ESQ.

25 * * *

1 M. MARTURANO
2 MATTHEW MARTURANO, called
3 as a witness, having been first duly sworn
4 by a Notary Public of the State of New
5 York, was examined and testified as
6 follows:

7 EXAMINATION BY.

8 MR. ZELMAN:

9 Q. Please state your name for the
10 record.

11 A. Matthew Marturano.

12 Q. What is your address?

13 A. 1348 Willoughby Avenue, #1L,
14 Brooklyn, New York 11237.

15 Q. Good morning, sir.

16 A. Good morning.

17 Q. Thank you for appearing for
18 today's deposition.

19 I e-mailed you a copy of the
20 subpoena, correct?

21 A. Yes.

22 Q. You received it?

23 A. Yes.

24 Q. I have a few questions for you
25 about a January 15th, 2014 job, that I

1 (Pages 1 to 4)

5

1 M. MARTURANO
 2 heard that you did. Okay?
 3 I take it you are an EMT?
 4 A. I am.
 5 Q. Have you ever been deposed
 6 before?
 7 A. I thought I did. But, it was a
 8 one-sided thing. It was more like prep.
 9 Q. You understand that your
 10 testimony today is under oath?
 11 A. Yeah.
 12 Q. You have a court reporter here.
 13 You have the right to counsel. I don't
 14 think you would need a counsel, but, you
 15 have the right to a counsel, if you want.
 16 Did you prepare to testify today?
 17 A. Yes, sir.
 18 Q. Did anybody tell you, say this,
 19 say that? Don't say this. Don't say that.
 20 MR. THADANI: Objection.
 21 A. No.
 22 Q. Do you currently work as an
 23 EMT?
 24 A. I do.
 25 Q. Did you have a different job on

6

1 M. MARTURANO
 2 January 15th, 2014? Different employer?
 3 A. Different employer.
 4 Q. Who is your current employer?
 5 A. Northwell Health, formally
 6 North Shore Health.
 7 Q. Northwell Heath?
 8 A. Yeah. At North Shore Hospital.
 9 Q. On January 15th, 2014, who were
 10 you working for?
 11 A. I was working for Senior Care
 12 EMS, who was subcontracted through by
 13 Kingsbrook Jewish.
 14 Q. What was the first name of it?
 15 A. Senior Care EMS.
 16 Q. Even though you guys were
 17 Senior Care, you would respond to all types
 18 of calls?
 19 A. Correct.
 20 MR. THADANI: Objection.
 21 Q. How long have you been an EMT,
 22 before January 15th, 2014?
 23 A. Since 2009.
 24 Q. Have you ever had any issues
 25 with your license; suspended, revoked,

7

1 M. MARTURANO
 2 something of that nature?
 3 MR. THADANI: Objection.
 4 A. Drivers license or --
 5 Q. No, the certificate.
 6 A. No.
 7 Q. Have you ever been disciplined
 8 by the employer, for any on-the-job-related
 9 activity?
 10 MR. THADANI: Objection.
 11 A. No.
 12 Q. Do you recall this incident on
 13 January 14th, 2015, when you responded to
 14 339 Lincoln Place, in Brooklyn?
 15 MR. THADANI: Objection.
 16 A. Are you asking me if I recall
 17 it?
 18 Q. Yeah.
 19 A. Yes, vaguely.
 20 Q. Do you remember how many calls
 21 you had made that day?
 22 MR. THADANI: Objection.
 23 A. No, I do not.
 24 Q. Do you remember where you were
 25 coming from, when you responded to this

8

1 M. MARTURANO
 2 call?
 3 A. No.
 4 Q. Do you remember if you got the
 5 call over the radio?
 6 A. It comes over, initially, on
 7 the radio and then through the computer
 8 system.
 9 Q. Were you the driver of the
 10 vehicle?
 11 A. I do not remember.
 12 Q. Do you remember who you were
 13 with?
 14 A. Yes.
 15 Q. Who was that?
 16 A. Quinton Dolon.
 17 Q. Was it just you two in the car?
 18 A. Correct.
 19 Q. Whose decision was it, to
 20 respond to this call? Was it just in your
 21 vicinity? Did someone directly send you
 22 there or something else?
 23 MR. THADANI: Objection.
 24 A. The dispatcher sends us. They
 25 -- it's computerized, closest unit. They

2 (Pages 5 to 8)

9

1 M. MARTURANO
 2 determine who goes to the calls.
 3 Q. What did you hear over the
 4 radio, to the best of your recollection,
 5 about the call?
 6 A. Don't recall.
 7 Q. Did you ever create any
 8 paperwork about this?
 9 A. Me, personally? I don't
 10 remember. I don't remember if I was
 11 driving or if I was the technician doing
 12 the paperwork. Generally, we do create
 13 documentation.
 14 Q. What kind of documentation?
 15 A. Patient care report.
 16 Q. Anything else?
 17 A. Given the situation, we would
 18 create an ACS report.
 19 Q. Do you know if that was done?
 20 A. Yes.
 21 Q. It was done?
 22 A. Yes.
 23 Q. Do you recall doing it yourself
 24 or you don't know if the other --
 25 A. I don't recall.

10

1 M. MARTURANO
 2 Q. Other than the patient care
 3 report and ACS report, was anything else
 4 created by your team?
 5 A. Not that I can recall.
 6 Q. So, you get a call over the
 7 radio. But, you don't remember what it
 8 was?
 9 A. I don't remember how they
 10 addressed it, no.
 11 Q. When you got to the scene, were
 12 you the first responders there?
 13 A. Yes.
 14 Q. What did you do when you got
 15 there?
 16 A. We proceeded to go into the
 17 building, up to the apartment that was
 18 given to us.
 19 Q. How did you get in?
 20 A. Somebody was waiting for us in
 21 the hall.
 22 Q. Who?
 23 A. The caller.
 24 Q. A female?
 25 A. Female.

11

1 M. MARTURANO
 2 Q. Can you describe her?
 3 A. Female, black, heavysset.
 4 Q. Did you speak to her?
 5 A. Yeah, both my partner and I.
 6 She said she was the one who called.
 7 Q. Were any questions asked of
 8 her?
 9 A. We asked her why she called.
 10 Q. What did she say?
 11 A. I wouldn't be able to tell you
 12 verbatim what she said. Something along
 13 the lines of, that she called because she
 14 believes her brother-in-law or her sisters'
 15 husband, whatever word she used, was
 16 touching the baby inappropriately. Like I
 17 said, I don't remember exactly what she
 18 said. Whatever she said was enough for us
 19 to have reasonable doubt to go inside, to
 20 gain entry, to make sure there wasn't
 21 anything going on.
 22 Q. What do you mean by that?
 23 A. We would have to check on the
 24 welfare of the baby. We wouldn't be able
 25 to just -- when we got to the apartment he

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1 M. MARTURANO
 2 wouldn't let us in.
 3 Q. Before we get to that, I want
 4 to understand something. You're saying you
 5 couldn't ignore what she said?
 6 A. Correct.
 7 MR. THADANI: Objection.
 8 Q. Where do you get that from? Is
 9 that from some kind of training you had?
 10 Where do you get that information from?
 11 MR. THADANI: Objection.
 12 A. It is our training to not
 13 ignore an allegation like that. Because,
 14 we're mandated reporters by the state.
 15 Even if I wasn't on the job, if I saw
 16 something, somebody being abused, an adult
 17 or a child, I'm mandated by the state to
 18 report it.
 19 Q. You're not necessarily saying
 20 that, let's say she directed you upstairs
 21 and there was nobody home. You're not
 22 saying you would have the right to break
 23 down the door, would you?
 24 A. No. That would have to be a
 25 police matter.

3 (Pages 9 to 12)

13

1 M. MARTURANO
 2 MR. THADANI: Objection.
 3 Q. You're saying it was sufficient
 4 enough for you to investigate this
 5 situation?
 6 MR. THADANI: Objection.
 7 A. Investigate as having to check
 8 on the welfare of the child, through police
 9 resources.
 10 Q. Does that mean you don't have
 11 the right to do it yourself?
 12 MR. THADANI: Objection.
 13 A. I don't have the right to gain
 14 entry where I'm not welcomed. If I was
 15 able to make entry into the apartment
 16 willingly, then we would do our assessment
 17 and -- you know, we would do our
 18 assessment. Then, if we weren't allowed
 19 in, then we would have to get police
 20 resources involved.
 21 Q. Did you end up calling police
 22 at all?
 23 A. I don't remember if it was me
 24 or my partner.
 25 Q. One of you did?

14

1 M. MARTURANO
 2 A. One of us radioed for the cops.
 3 Q. Do you remember anything
 4 specific that she said about why she felt
 5 the baby was being touched inappropriately?
 6 Why it happened? When she saw it?
 7 MR. THADANI: Objection.
 8 A. Not really. She said she
 9 mainly noticed it when he was changing the
 10 baby.
 11 Q. Did you ask her any questions
 12 about what she meant by that? Was he
 13 penetrating the baby? Was the baby a boy
 14 or girl? Did she say any of that --
 15 MR. THADANI: Objection.
 16 A. No. Well, it was a girl, if
 17 I'm not mistaken, the child.
 18 Q. Did she say he was taking down
 19 his clothes? Do you remember if you asked
 20 her that?
 21 A. I don't remember.
 22 Q. There was testimony from your
 23 partner that this woman appeared mentally
 24 disturbed, the one you were speaking to, at
 25 the door. What was your take on that? Did

15

1 M. MARTURANO
 2 you take that to be the case?
 3 MR. THADANI: Objection.
 4 A. Initially, I didn't get that
 5 from her. I mean, she seemed concerned
 6 when -- initially, when we were first
 7 talking to her. Later on, we found out
 8 that she had a learning disability or
 9 something like that.
 10 Q. You found out she had a
 11 learning disability. Did you find out on
 12 your own or did someone tell you that or
 13 something else?
 14 A. The sister. The mother of the
 15 child.
 16 Q. Did you notice anything unusual
 17 about this woman that met you at the door?
 18 A. Initially, no.
 19 MR. THADANI: Objection.
 20 Q. What about later?
 21 A. Later on, after the sister told
 22 us she had a learning disability, her story
 23 seemed to be changing or just wasn't
 24 consistent with -- wasn't consistent with
 25 what she was originally saying.

16

1 M. MARTURANO
 2 Q. Do you remember what it was
 3 that she said, that was inconsistent?
 4 When she started talking about
 5 the inconsistent stuff, was that before or
 6 after you had inspected the baby?
 7 MR. THADANI: Objection.
 8 A. No.
 9 Q. When she started to talk about
 10 the inconsistent stuff, was that before or
 11 after you had inspected the baby?
 12 A. I don't recall.
 13 MR. THADANI: Objection.
 14 Q. Do you remember if it was
 15 before or after the police came?
 16 A. After the police.
 17 Q. Was it after the police gained
 18 entry into the apartment, that her story
 19 started to change or before, if you know?
 20 MR. THADANI: Objection.
 21 A. I don't recall.
 22 Q. But, you were in the apartment
 23 when her story started to change?
 24 MR. THADANI: Objection.
 25 A. Yes.

4 (Pages 13 to 16)

17

1 M. MARTURANO
 2 Q. You don't remember,
 3 specifically, what it was that caused you
 4 to disbelieve her?
 5 MR. THADANI: Objection.
 6 A. No.
 7 Q. Do you remember, specifically,
 8 what it was that made you feel it was
 9 inconsistent?
 10 A. I wouldn't say that I didn't
 11 believe her. Just -- like I said, her
 12 story, after the fact, wasn't consistent
 13 with her original story.
 14 Q. If she had said what she
 15 originally said, let's say she had said the
 16 second story she gave. If she told you
 17 that story at the door, would you still
 18 have reason to check on the baby?
 19 MR. THADANI: Objection.
 20 A. Either way, whatever story she
 21 told us, it would still be -- give us
 22 reasonable suspicion to at least check on
 23 the welfare of the child.
 24 Q. Did you end up checking on the
 25 welfare of the child?

18

1 M. MARTURANO
 2 A. Yes.
 3 Q. Did you inspect the child?
 4 A. Just an outside, physical
 5 assessment. Nothing invasive.
 6 Q. Did you make a report of that?
 7 Was that part of your patient care report?
 8 A. It would have been. Can I
 9 remember if it was? No.
 10 Q. Do you recall anything about
 11 the baby that appeared unusual?
 12 MR. THADANI: Objection.
 13 A. No.
 14 Q. It looked like a healthy baby
 15 to you?
 16 MR. THADANI: Yes.
 17 A. Yes.
 18 Q. How long did it take for you to
 19 make that assessment that the baby was
 20 healthy?
 21 MR. THADANI: Objection.
 22 A. How long? I'm not sure. We do
 23 assessment of our patients within ten
 24 minutes of contact. Once we made entry and
 25 made contact, I guess, within ten minutes.

19

1 M. MARTURANO
 2 Q. When you made the assessment
 3 that the baby was healthy, where was my
 4 client, Mr. Larry Thompson? Was he on the
 5 floor? Was he under arrest?
 6 MR. THADANI: Objection.
 7 A. He was already under arrest. I
 8 believe he was already removed from the
 9 premises.
 10 Q. But, you made your assessment
 11 in the bedroom at the premises?
 12 A. I don't remember if it was in
 13 the bedroom, but it was in the apartment.
 14 Q. Did you speak to anybody in the
 15 apartment? Like, the mother or my client,
 16 Mr. Thompson?
 17 MR. THADANI: Objection.
 18 A. I didn't speak to Mr. Thompson.
 19 The only interaction I had with
 20 Mr. Thompson was in the beginning, when we
 21 originally tried to gain entry. I spoke
 22 with the mother of the child.
 23 Q. What did the mother say?
 24 A. Like I said, I can't remember
 25 exactly what she said. I remember along

20

1 M. MARTURANO
 2 the lines of, it wasn't true, whatever
 3 allegations were being said about
 4 Mr. Thompson and that the baby had a
 5 checkup or something. I don't remember
 6 when.
 7 Q. This woman who called, do you
 8 know her name?
 9 A. No.
 10 Q. Do you know where she called
 11 from?
 12 A. No.
 13 Q. Did you ever find out if she
 14 was present when this thing was taking
 15 place, that she alleged was taking place?
 16 MR. THADANI: Objection.
 17 A. No.
 18 Q. I take it, if the wife had said
 19 that the allegations weren't true, that
 20 someone had shared the allegations with the
 21 wife and told her what the call was about?
 22 MR. THADANI: Objection.
 23 A. Yeah, we explained to her what
 24 we were told and why we were there.
 25 Q. Did she mention anything about

5 (Pages 17 to 20)

21

1 M. MARTURANO
 2 having been at the doctor that day?
 3 A. I don't remember. I remember
 4 her saying the baby had a checkup recently.
 5 I don't remember if it was that day.
 6 Q. Did you ask to look at any
 7 paperwork from the doctor?
 8 A. No.
 9 Q. Did she mention that Larry
 10 Thompson had gone with her and the baby to
 11 the doctor that day?
 12 MR. THADANI: Objection.
 13 A. Don't recall.
 14 Q. So, you saw the woman in the
 15 front area and she let you in the building;
 16 is that right?
 17 A. Correct.
 18 Q. What happened next? Did she
 19 lead you up to the apartment?
 20 A. Don't remember if she led us
 21 all the way. I think she stood -- I don't
 22 remember, honestly.
 23 Q. What was her demeanor? Did she
 24 appear nervous, upset?
 25 MR. THADANI: Objection.

22

1 M. MARTURANO
 2 A. I guess nervous.
 3 Q. Was she overweight?
 4 MR. THADANI: Objection.
 5 A. Yeah, she was heavysset.
 6 Q. How old was she?
 7 A. I don't recall.
 8 Q. You knocked on the door
 9 yourself, you and your partner?
 10 A. Correct.
 11 Q. Do you remember who knocked,
 12 you or him?
 13 A. I don't remember.
 14 Q. What happened when you knocked?
 15 A. I explained that we received a
 16 911 call. When he opened the door, he
 17 aggressively said, nobody called here. I
 18 don't remember his words. I remember the
 19 way he said it was aggressive. He said,
 20 nobody called. I said, are you sure nobody
 21 called? Do you mind if we come in and make
 22 sure everybody is all right? He said no.
 23 I said, maybe we have the wrong address.
 24 That's what I said, just not to agitate him
 25 any further. That's when we went

23

1 M. MARTURANO
 2 downstairs and radioed for the police to
 3 gain entry.
 4 Q. At any point, did you make it
 5 into the apartment at that visit, with Mr.
 6 Thompson?
 7 MR. THADANI: Objection.
 8 A. The original interaction?
 9 Q. Yeah. Both of you are outside,
 10 you and your partner?
 11 A. Yeah. We never went into the
 12 apartment.
 13 Q. You said you never went into
 14 the apartment with your partner, before the
 15 police arrived, correct?
 16 MR. THADANI: Objection.
 17 A. Correct.
 18 Q. How long was this conversation
 19 with him?
 20 A. It was quick. Maybe two
 21 minutes, if that.
 22 Q. Was anybody yelling or
 23 screaming, at that point?
 24 A. Not that I recall.
 25 Q. You say he was aggressive. You

24

1 M. MARTURANO
 2 just mean his tone was blunt? Is that what
 3 you mean by aggressive?
 4 MR. THADANI: Objection.
 5 A. It was aggressive towards us.
 6 When we told him, he was like, no, nobody
 7 called 911 here.
 8 Q. Did he do anything physical?
 9 A. No. His tone was aggressive.
 10 It was an aggressive tone. You can tell
 11 when somebody --
 12 Q. Meaning, he basically didn't
 13 want you there?
 14 A. Correct.
 15 Q. Was anybody cursing in that
 16 conversation?
 17 A. I don't remember.
 18 Q. Did you mention to him or did
 19 your partner mention to him that the person
 20 who called was right here?
 21 A. No.
 22 Q. Why not?
 23 A. Like I said, he was aggressive.
 24 So, we didn't want to have him agitated any
 25 further. We felt it was already going to

6 (Pages 21 to 24)

25

1 M. MARTURANO
 2 be a problem. So, we called for the cops.
 3 Q. Assume, for argument's sake,
 4 that he came out in a very polite way and
 5 said, I don't want you to come into my
 6 apartment. I think you have the wrong
 7 apartment. What would you have done in
 8 that situation?
 9 MR. THADANI: Objection.
 10 A. We still would have had to gain
 11 entry and check on the welfare of the
 12 child, because, we already had verification
 13 from the third-party caller, that it was at
 14 that apartment, at that address. We would
 15 have had to.
 16 Q. Do you think you would have
 17 explained to him, if he would have been
 18 polite, that the caller is right here, and
 19 we will have to call the police if you
 20 don't let us in?
 21 MR. THADANI: Objection.
 22 A. If he approached that way,
 23 yeah. But, he was already defying in
 24 letting us in.
 25 Q. So, there's nothing in your

26

1 M. MARTURANO
 2 rules and regulations that says you can't
 3 tell the person in the home, who the caller
 4 is or confidentiality or anything like
 5 that?
 6 MR. THADANI: Objection.
 7 A. No.
 8 Q. So, you went downstairs and one
 9 of the two of you radioed the police,
 10 correct?
 11 A. Right.
 12 Q. Do you remember how you radioed
 13 the police? Had you called 911 or
 14 something else?
 15 A. No, we have portable radios
 16 that link directly to the fire department.
 17 Q. Who put the call over; if you
 18 remember?
 19 A. The fire department.
 20 Q. I mean, between the two of you?
 21 A. Like I said, I don't remember.
 22 Q. What was said?
 23 A. I don't remember.
 24 Q. You think, maybe, it was your
 25 partner who put it over; if you don't

27

1 M. MARTURANO
 2 remember?
 3 A. It's possible. Like I said --
 4 Q. Do you know the sum and
 5 substance of what was said?
 6 A. I could tell you what would
 7 normally be said.
 8 Q. Not to guess but, just --
 9 A. No, I can't tell you.
 10 Q. Something along the lines, you
 11 need police assistance to gain access to
 12 the place; is that right?
 13 MR. THADANI: Objection.
 14 A. That's normally what we would
 15 say.
 16 Q. Did you wait downstairs inside
 17 or out, in your car?
 18 MR. THADANI: Objection.
 19 A. As we walked down the stairs,
 20 as we made the call, the cops were there
 21 within -- I guess they were already
 22 responding. I'm not sure, because they
 23 were there rather quickly.
 24 Q. You think it's probable that
 25 the cops didn't even hear your call and

28

1 M. MARTURANO
 2 that they came on their own?
 3 MR. THADANI: Objection.
 4 A. I don't know.
 5 Q. How long were you there, before
 6 the cops arrived?
 7 A. I can't recall.
 8 Q. When the cops arrived, where
 9 were you, inside or out?
 10 A. Still in the apartment
 11 building.
 12 Q. In the building, downstairs?
 13 A. Downstairs.
 14 Q. In the foyer area?
 15 A. Yeah.
 16 Q. How many cops came in?
 17 A. That, I can't tell you.
 18 Q. Two? Three? Four?
 19 MR. THADANI: Objection.
 20 A. It was a few cops. It was more
 21 than two.
 22 Q. Did you say anything to the
 23 cops?
 24 A. I can't remember. I'm pretty
 25 sure we explained to them the situation.

7 (Pages 25 to 28)

29

1 M. MARTURANO
 2 Q. The situation, being what?
 3 A. That we got a call for possible
 4 child abuse or endangerment and the guy
 5 wouldn't let us gain entry into the
 6 apartment. So, we need to check on the
 7 child.
 8 Q. Did you say anything about his
 9 tone being aggressive?
 10 A. Possibly. I can't remember.
 11 Q. Was the girl still there when
 12 the cops arrived?
 13 A. Yes.
 14 Q. Did the cops speak to the girl?
 15 A. Before entering the apartment?
 16 Q. Yeah.
 17 A. I'm not sure.
 18 Q. Was she in the foyer area when
 19 you were in the foyer area?
 20 A. I believe so. I can't
 21 remember.
 22 Q. How many cops went upstairs, if
 23 you saw?
 24 MR. THADANI: Objection.
 25 A. Like I said. I don't remember

30

1 M. MARTURANO
 2 the exact number. I remember it being more
 3 than two cops.
 4 Q. Did you go with the cops, back
 5 upstairs?
 6 A. Yes.
 7 Q. Did any cops stay in the foyer
 8 area when you got up?
 9 A. I don't remember.
 10 Q. What happened when you got
 11 upstairs?
 12 A. The cops knocked on the door
 13 and Mr. Thompson opened the door. I don't
 14 remember what words were exchanged, but, I
 15 remember him saying that they can't come in
 16 and they won't let them go in and the cop
 17 tried to enter the apartment. At that
 18 point Mr. Thompson shoved the cop or pushed
 19 the cop.
 20 Q. Couple things, were the cops in
 21 uniform?
 22 A. Yes.
 23 Q. You said that Mr. Thompson said
 24 that they won't let them in; is that right?
 25 MR. THADANI: Objection.

31

1 M. MARTURANO
 2 Q. That's what you said?
 3 A. Mr. Thompson would not let --
 4 Q. Mr. Thompson or you said, they?
 5 MR. THADANI: Objection.
 6 Q. Meaning, that he spoke to his
 7 wife about it or somebody else?
 8 MR. THADANI: Objection.
 9 A. Mr. Thompson would not let the
 10 cops in.
 11 MR. THADANI: He misspoke.
 12 Q. You had mentioned that
 13 Mr. Thompson said they won't let him in.
 14 MR. THADANI: Objection.
 15 A. I misspoke.
 16 Q. You think it was him not
 17 letting them in?
 18 A. Mr. Thompson would not let them
 19 in.
 20 Q. Did you see anybody else in the
 21 doorway?
 22 A. There was nobody else in the
 23 doorway.
 24 Q. How long was this interaction,
 25 before the cop tried to force his way in?

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1 M. MARTURANO
 2 MR. THADANI: Objection.
 3 A. I'm not sure.
 4 Q. Just to be clear, my client
 5 told them he doesn't want them coming in,
 6 right? One of the cops proceeded in
 7 against my client's will; is that right?
 8 MR. THADANI: Objection.
 9 A. From my point of view, that's
 10 when it seemed like he tried to enter the
 11 apartment.
 12 Q. When he did that, did he try to
 13 push my client aside with his arm?
 14 A. I didn't see that.
 15 Q. Did he try to push the door
 16 open?
 17 A. Possibly.
 18 Q. You said, at that point, you
 19 said my client shoved the officer; is that
 20 right?
 21 A. Yes.
 22 Q. Where did he shove him; in the
 23 arm, in the chest, something else?
 24 A. In the midsection.
 25 Q. When you say push, do you mean

8 (Pages 29 to 32)

33

1 M. MARTURANO
 2 push back to keep him out of the apartment?
 3 MR. THADANI: Objection.
 4 A. No, it was an aggressive shove,
 5 aggressive push.
 6 Q. What do you mean?
 7 A. Like, a hard push.
 8 Q. Two hands?
 9 A. Yes.
 10 Q. Did the cop fall?
 11 A. I don't recall. I recall
 12 stumbling. I don't recall falling.
 13 Q. What happened next?
 14 A. They proceeded to handcuff
 15 Mr. Thompson and, at that point, he was
 16 resisting.
 17 Q. Where did they handcuff? In
 18 the hallway? In the apartment?
 19 A. It was right over the
 20 threshold.
 21 Q. Did all the cops participate in
 22 that grabbing my client to put him in
 23 handcuffs?
 24 MR. THADANI: Objection.
 25 A. I don't recall how many cops

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1 M. MARTURANO
 2 there were.
 3 Q. Were there any cops not
 4 participating?
 5 A. I don't recall.
 6 MR. THADANI: Objection.
 7 Q. Were any punching or kicking?
 8 A. I didn't see any punching.
 9 Q. Did anybody put their knee in
 10 my client's back?
 11 A. I didn't see that.
 12 Q. Did you see if they got him in
 13 handcuffs?
 14 A. They did, eventually.
 15 Q. Did you see it?
 16 A. When he was in handcuffs?
 17 Q. Did you see how they put him in
 18 handcuffs?
 19 A. No, I saw the motion of them --
 20 Q. So, from the time of the push,
 21 to the time they put his hands behind his
 22 back and put him in cuffs, how long are we
 23 talking about?
 24 A. A minute, two minutes. I can't
 25 recall.

35

1 M. MARTURANO
 2 Q. All that happens in the
 3 threshold of the door?
 4 MR. THADANI: Objection.
 5 A. Right.
 6 Q. Before the cop tried to get in
 7 the apartment, did anybody tell him, if he
 8 doesn't let them in, he's going to be under
 9 arrest?
 10 A. Yes, there was one of the cops.
 11 I can't remember who it was. They did
 12 state to him, they did tell him that he
 13 would be interfering with possible patient
 14 care.
 15 Q. They didn't say they were going
 16 to arrest him though?
 17 MR. THADANI: Objection.
 18 A. I don't remember, no. I
 19 remember them telling him that he would be
 20 interfering with an investigation for
 21 patient care. Something along those lines.
 22 Q. Was there any discussion you
 23 heard about getting a warrant?
 24 A. Not that I remember.
 25 Q. Did you ever receive training

36

1 M. MARTURANO
 2 about that? About when you need a warrant
 3 and when you don't need a warrant?
 4 A. No.
 5 Q. You said my client was
 6 resisting. What do you mean? How?
 7 A. How else do people resist?
 8 They struggle with the cops not to be
 9 restrained.
 10 Q. Does that mean he wasn't, like,
 11 putting his hands behind his back?
 12 MR. THADANI: Objection.
 13 A. Just fighting with the -- yeah,
 14 wasn't putting his hands behind his back,
 15 resisting. Yeah, that's all I can really
 16 say.
 17 Q. Did he punch anybody?
 18 A. I didn't see him.
 19 Q. Kick anybody?
 20 A. Couldn't tell.
 21 Q. Did you hear any yelling and
 22 screaming when this was taking place?
 23 A. Yeah, he was yelling.
 24 Q. What was he saying?
 25 A. I don't remember.

9 (Pages 33 to 36)

37

1 M. MARTURANO
 2 Q. Were the cops yelling?
 3 A. Yeah, there was yelling going
 4 on. Do I remember what they said? No.
 5 Q. Did you see any neighbors
 6 looking on, at that time?
 7 A. No, not that I recall.
 8 Q. You saw that he was in cuffs at
 9 some point, right?
 10 A. Yes.
 11 Q. When he was in cuffs, was he in
 12 the foyer area or the hallway or somewhere
 13 else?
 14 MR. THADANI: Objection.
 15 A. He was in the hallway, standing
 16 up.
 17 Q. At any point, did you hear him
 18 yell; my back, my back? Anything like
 19 that?
 20 A. No.
 21 Q. Did they have him facedown on
 22 the floor?
 23 MR. THADANI: Objection.
 24 A. I don't recall.
 25 Q. At that point, did some of the

38

1 M. MARTURANO
 2 officers tell you to go in or you went in
 3 on your own?
 4 A. Once he was restrained, we went
 5 in.
 6 Q. The question is, who told you
 7 to go in? You decided to go in on your own
 8 or the cops told you to go in or something
 9 else?
 10 A. I don't remember who told us to
 11 go in. We went in.
 12 Q. Where did you go in, at that
 13 point?
 14 A. To the back of the apartment.
 15 Q. That was the first time you had
 16 gone in?
 17 A. Correct.
 18 Q. And you saw the wife?
 19 A. Yes.
 20 Q. And the baby?
 21 A. Right.
 22 Q. And you did the assessment.
 23 A. Right.
 24 Q. She didn't resist at all, the
 25 assessment?

39

1 M. MARTURANO
 2 MR. THADANI: Objection.
 3 A. No.
 4 Q. Did you tell the cops at the
 5 scene, that the baby looks fine?
 6 A. I don't recall what we said.
 7 But, regardless of if we thought the baby
 8 looked fine or not, the baby had to be
 9 assessed.
 10 Q. We'll get to that. I'm trying
 11 to see if you told the cops --
 12 A. I don't remember.
 13 Q. Did your partner say that to
 14 them?
 15 A. I'm not sure.
 16 Q. Were the police in the room
 17 with you when you did the inspection?
 18 A. Yes.
 19 Q. You said that lasted, maybe,
 20 ten minutes?
 21 A. Yeah, if that.
 22 MR. THADANI: Objection.
 23 Q. Could have been less?
 24 A. Could have been less.
 25 Q. Did you see a diaper rash?

40

1 M. MARTURANO
 2 A. No. We don't inspect private
 3 parts, if we don't have to.
 4 Q. Did you inspect the private
 5 parts?
 6 A. No.
 7 Q. What did you inspect about the
 8 baby?
 9 A. Just the overall behavior of
 10 the baby. It was baby was acting abnormal.
 11 If the baby was crying or any discoloration
 12 of the baby, indicating maybe malnutrition
 13 or anything like that.
 14 Q. Did you determine if the baby
 15 didn't need immediate medical care to save
 16 its life?
 17 A. Correct.
 18 Q. Did you tell her she had to go
 19 to the hospital or the cops or something
 20 else?
 21 A. I believe we said that the baby
 22 would have to go to the hospital to be
 23 evaluated.
 24 Q. Do you think that's when she
 25 told you she had been to the doctor that

10 (Pages 37 to 40)

41

1 M. MARTURANO
 2 day with the baby?
 3 MR. THADANI: Objection.
 4 A. I don't recall.
 5 Q. Did she agree to go to the
 6 hospital?
 7 A. Yes.
 8 Q. Did she go with you to the
 9 hospital?
 10 A. Yes.
 11 Q. You took her in the ambulance?
 12 A. Yes.
 13 Q. Who else did you take in the
 14 ambulance; the baby, the mother, anyone
 15 else?
 16 A. The baby, the mother, I think
 17 the sister came. That, I can't remember.
 18 Q. At any point, did you tell the
 19 cops that the caller had become
 20 inconsistent?
 21 A. I don't recall.
 22 Q. Did the cops seem to realize
 23 that there was a problem with the caller?
 24 Did they seem to understand that?
 25 MR. THADANI: Objection.

42

1 M. MARTURANO
 2 A. I don't recall.
 3 Q. Did the sister in the room, say
 4 that she had a learning disability, in
 5 front of the cops?
 6 A. In front of the cops? Not
 7 sure. The cops were in the room with us
 8 most of the time. She told me and my
 9 partner.
 10 Q. You don't think that
 11 information was hidden from the cops?
 12 MR. THADANI: Objection.
 13 A. I'm not sure.
 14 Q. Did the cops tell you to do
 15 anything, like go to the hospital or
 16 anything else?
 17 A. No.
 18 Q. Did they tell you not to do
 19 anything?
 20 MR. THADANI: Objection.
 21 A. No.
 22 Q. You dropped the baby off at the
 23 emergency room?
 24 A. Correct.
 25 Q. Did you give any kind of

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1 M. MARTURANO
 2 assessment to the people at the emergency
 3 room?
 4 A. A report, you mean?
 5 Q. Report or anything else?
 6 A. Yeah. I mean, we just
 7 explained to them what we were told. That
 8 it was possible that she was, the baby, was
 9 being either molested or abused and told
 10 them that our initial findings was that the
 11 baby seems healthy, nothing wrong with the
 12 baby.
 13 Q. Have you ever had a case where
 14 a baby was molested or abused and you could
 15 tell by looking at the baby?
 16 MR. THADANI: Objection.
 17 A. I can't recall.
 18 Q. Do you remember any
 19 conversations you had with the cops, at any
 20 point?
 21 MR. THADANI: Objection.
 22 A. No. Besides sharing whatever
 23 information, when you do the ACS report,
 24 you have to have the date of birth, names,
 25 phone numbers, for people in the household.

44

1 M. MARTURANO
 2 That is the only time we really share
 3 information.
 4 Q. Other than submitting an ACS
 5 report, did you ever speak to anybody from
 6 ACS?
 7 A. We did. I don't remember who
 8 it was. I don't remember who did the
 9 report.
 10 Q. You said you spoke to someone
 11 from ACS?
 12 A. Me, personally? I don't
 13 remember if it was me or my partner.
 14 Q. One of the two of you did?
 15 A. Yeah. When you make the ACS
 16 report, you fax it over to the hotline.
 17 You explain to the case worker what you saw
 18 and they give you a case number and
 19 followup after that.
 20 Q. Was there anything in your
 21 report about this woman having a learning
 22 disability or changing her story?
 23 MR. THADANI: Objection.
 24 A. I don't remember.
 25 Q. Do you know what was said to

11 (Pages 41 to 44)

45

1 M. MARTURANO
 2 the ACS worker?
 3 A. No.
 4 Q. Do you recall anything that was
 5 said, other than what you testified to
 6 already? Do you remember anything that was
 7 said by the cops or to the cops?
 8 A. No.
 9 Q. Before the officer tried to
 10 force his way into the apartment, was my
 11 client, at any point, physically
 12 confrontational?
 13 MR. THADANI: Objection.
 14 A. Physically? No. Like I said,
 15 he was aggressive the whole time, his
 16 demeanor, his tone.
 17 Q. Anything about this incident
 18 that you remember, that I haven't asked you
 19 about?
 20 MR. THADANI: Objection.
 21 A. No, sir.
 22 Q. What's that?
 23 A. I said, no, sir.
 24 Q. Just to clarify, you said that
 25 they told him that he might be interfering

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1 M. MARTURANO
 2 with an investigation if he didn't let them
 3 in. But, not necessarily that he would be
 4 arrested, if he didn't let them in?
 5 MR. THADANI: Objection.
 6 A. I don't remember. I remember
 7 him being warned.
 8 Q. About?
 9 A. About him interfering with our
 10 patient care or checking on the patient.
 11 Q. But, you don't remember anybody
 12 saying he would be arrested?
 13 MR. THADANI: Objection.
 14 A. I cannot recall.
 15 Q. Can you describe the officer
 16 who tried to push his way in?
 17 MR. THADANI: Objection.
 18 A. No.
 19 Q. Were all the officers in
 20 uniform?
 21 A. Yes.
 22 Q. I may have asked you this
 23 before, but, how many officers grabbed him
 24 to try to arrest him?
 25 A. I don't recall.

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1 M. MARTURANO
 2 MR. ZELMAN: I have nothing
 3 further. Thank you very much.
 4 MR. THADANI: I have some
 5 questions.
 6 EXAMINATION BY
 7 MR. THADANI:
 8 Q. Once again, my name is Kevin
 9 Thadani. I'm an attorney for the City of
 10 New York and the Defendant Police officers.
 11 Just to followup on a few things.
 12 You said you didn't remember
 13 what came over the radio when you first
 14 responded to the location. But, do you
 15 remember anything, at all, about the call?
 16 Not necessarily specifics, what you were
 17 told. Just anything, in general, about why
 18 you were being called to that location?
 19 A. I don't remember what the tech
 20 said in the computer. I just remember
 21 being met downstairs and that was basically
 22 the possible abuse going on by the
 23 third-party caller.
 24 Q. Do you remember, during that
 25 call that you received or whether through

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1 M. MARTURANO
 2 the computer, that you were told that it
 3 was a case of possible child abuse?
 4 A. No, I don't remember.
 5 Q. When you first went up to the
 6 apartment and knocked on the plaintiff's
 7 door and it was just you and your partner
 8 and officers had not yet arrived, can you
 9 describe, in more detail, what the
 10 plaintiff's demeanor was like, at that
 11 time, when he answered the door?
 12 A. I could just say, aggressive
 13 and agitated. It wasn't welcoming. He
 14 seemed mad that we were there. He said,
 15 no, nobody called 911 here, and closed the
 16 door.
 17 Q. Do you remember, at any point,
 18 him using vulgar language, cursing,
 19 anything like that?
 20 A. I don't remember any details of
 21 anything that was said. I remember knowing
 22 that his demeanor was aggressive and
 23 agitated and I knew that he wasn't going to
 24 let us in the apartment without gaining
 25 entry through the police.

12 (Pages 45 to 48)

49

1 M. MARTURANO
 2 Q. Is it fair to say that you felt
 3 you needed to gain entry to check on the
 4 child, regardless of whether Mr. Thompson
 5 wanted you to come in or not?
 6 A. Yes.
 7 MR. ZELMAN: Objection.
 8 Q. When you went up to the
 9 apartment the second time, with the
 10 officers, how would you describe
 11 Mr. Thompson's demeanor, at that point?
 12 A. The same. But, probably more
 13 agitated. Because, now the cops are
 14 involved. More aggressive, more agitated.
 15 Q. Do you recall, at this point,
 16 him cursing or anything like that?
 17 A. I really can't remember what
 18 was said.
 19 Q. Now, you had indicated earlier
 20 that when the officers attempted to
 21 handcuff and arrest Mr. Thompson, he
 22 resisted arrest; do you remember that?
 23 A. Yes.
 24 Q. Do you remember, any point, and
 25 I think you had said that you didn't see

50

1 M. MARTURANO
 2 any pushing or kicking or anything like
 3 that, right?
 4 A. No.
 5 Q. Do you recall ever seeing
 6 Mr. Thompson try to swing, or try to throw
 7 a punch and not being able to do that?
 8 A. No, I don't recall seeing that.
 9 Q. Do you recall, prior to the
 10 time that Mr. Thompson was arrested, seeing
 11 any neighbors or other civilian witnesses
 12 in the hallway or the area, observing what
 13 was going on?
 14 A. No, I don't remember anybody.
 15 Q. After Mr. Thompson was
 16 arrested, do you remember him making any
 17 statements, at all, to anybody? Whether it
 18 be about complaints about injuries or
 19 complaints about being arrested or anything
 20 like that?
 21 A. No.
 22 Q. Do you remember him,
 23 specifically, making any complaints about
 24 his back?
 25 A. No.

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1 M. MARTURANO
 2 Q. Where was the officer standing,
 3 in relation to the door, when Mr. Thompson
 4 pushed him? Was he in the doorway?
 5 Approaching the doorway? Something else?
 6 A. If this was the door. The door
 7 opened inwards. Larry Thompson was
 8 standing -- the door was opened about,
 9 little less than three quarters of the way
 10 and the officer was on this side of the
 11 door, if I'm not mistaken. So,
 12 Mr. Thompson was standing in the doorway,
 13 officer over here, talking to him and then
 14 he tried to open the door. He went into
 15 the motion of opening the door further and
 16 that's when he was pushed.
 17 Q. At that point, the officer's
 18 feet would have been outside of the
 19 doorway, because Mr. Thompson was standing
 20 at the doorway, right?
 21 A. I'm not sure. I believe the
 22 officer never -- the only thing he did do
 23 was open the door. He didn't physically go
 24 in the apartment at that time.
 25 MR. ZELMAN: Objection.

52

1 M. MARTURANO
 2 Q. Do you remember if the officer
 3 said anything, immediately before
 4 attempting to start approaching the
 5 doorway?
 6 A. I don't recall.
 7 MR. THADANI: I have no further
 8 questions.
 9 (Whereupon, at 11:50 A.M., the
 10 Examination of this Witness was
 11 concluded.)
 12
 13

 MATTHEW MARTURANO

Subscribed and sworn to before me
 this ____ day of _____ 20____.

 NOTARY PUBLIC

13 (Pages 49 to 52)

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1	M. MARTURANO		
2	E X H I B I T S		
3			
4	EXHIBITS:		
5			
6	EXHIBIT	EXHIBIT	PAGE
7	(NONE)		
8			
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17	INFORMATION AND/OR DOCUMENTS REQUESTED		
18	INFORMATION AND/OR DOCUMENTS		PAGE
19	(NONE)		
20			
21			
22	QUESTIONS MARKED FOR RULINGS		
23	PAGE LINE QUESTION		
24	(NONE)		
25			

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1 M. MARTURANO
2 C E R T I F I C A T E
3
4 STATE OF NEW YORK)
: SS.:
5 COUNTY OF NEW YORK)
6
7 I, JAMIE BORTNER, a Notary Public for
8 and within the State of New York, do hereby
9 certify:
10 That the witness whose examination is
11 hereinbefore set forth was duly sworn and
12 that such examination is a true record of
13 the testimony given by that witness.
14 I further certify that I am not
15 related to any of the parties to this
16 action by blood or by marriage and that I
17 am in no way interested in the outcome of
18 this matter.
19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 16th day of November 2016.
21
22
23
24 JAMIE BORTNER
25

14 (Pages 53 to 54)

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